

01-20-04

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Practitioner's Docket No. 49632 (71699)

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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: P. Zeitlin et al.  
 Application No.: 09/523,776 Group No. 1617  
 Filed: March 11, 2000 Examiner: S. Wang  
 For: MODULATION OF PROTEIN EXPRESSION USING CARBOCYCLIC ARYL  
 ALKENOIC ACID DERIVATIVES

Mail Stop Petition  
 Commissioner for Patents  
 P.O. Box 1450  
 Alexandria, VA 22313-1450

**PETITION FOR REVIVAL OF AN APPLICATION  
 FOR PATENT ABANDONED UNINTENTIONALLY  
 UNDER 37 C.F.R. SECTION 1.137(b)**

**NOTE:** "In a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995, any petition to revive pursuant to this section must be accompanied by a terminal disclaimer and fee as set forth in section 1.321 dedicating to the public a terminal part of the term of any patent granted thereon equivalent to the period of abandonment of the application. Any terminal disclaimer pursuant to this paragraph must also apply to any patent granted on any continuing application that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the application for which revival is sought. The provisions of this paragraph do not apply to lapsed patents." 37 C.F.R. Section 1.137(c).

**NOTE:** In accordance with the Notice of November 5, 1990 (1121 O.G. 6), an application abandoned under 37 C.F.R. Section 1.53(d) for failure to timely provide the appropriate filing fee, oath or declaration and/or surcharge may be revived under the procedure of 37 C.F.R. Section 1.137(b).

1. This application became abandoned for failure to timely file a response to the Final Office Action dated December 31, 2002.

**NOTE:** Extensions under 37 C.F.R. Section 1.136 are available only if asked for "prior to or with the response." Accordingly, if

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**CERTIFICATE OF EXPRESS MAILING**

I hereby certify that, on the date shown below, this correspondence is being:

**MAILING**

deposited with the United States Postal Service with sufficient postage as Express Mail, mailing label number EV317948344US in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Date: January 16, 2004

**FACSIMILE**

transmitted by facsimile to the Patent and Trademark Office, (703) \_\_\_\_\_.  
 Signature Michelle C. Chicos

Michelle C. Chicos  
 (type or print name of person certifying)

01/21/2004 MDMATE1 00000019 09523776

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(Petition for Revival of Unintentionally Abandoned Application--page 1 of 2)

*the question of abandonment arises when the provisions of Section 1.136 can no longer be used, then the application is abandoned when the unextended time for response expired. Therefore, no extension fees are due on a petition for revival. Thus: An application which is abandoned for failure to respond within a set period with no extension fee having been paid, would not require the payment of extension fees as a condition for revival. M.P.E.P. Section 711.03(c), 6th ed., rev. 2.*

2. This application became abandoned because the failure to prosecute was an unintentional delay. The entire delay in filing the required reply from the due date until the filing of the petition was unintentional. 37 C.F.R. Section 1.137(b)(3).

Applicants became aware of the abandoned status upon receiving a telephone call from Examiner Wang on August 21, 2003. A Notice of Abandonment subsequently was mailed on August 27, 2003. On August 27, 2003, Applicants filed a Petition to Withdraw a Holding of Abandonment. The contents of this Petition are incorporated by reference herein, indicating that the entire delay in filing payment of the issue fee was unintentional.

3. Response or action required

has been filed.  
 is attached.

4. Fee (37 C.F.R. 1.17(m))

Application status is:

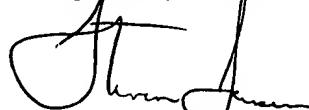
Small business entity-fee \$665.00.  
 A statement is attached.  
 A statement was filed.  
 Other than small entity-fee \$1,330.00.

5. Payment of fee

Enclosed please find a check for \$1,330.00.

Charge Account 04-1105 for any additional fee required.  
 Charge Account \_\_\_\_\_ the sum of \$

Respectfully submitted,



Robert L. Buchanan (Reg. No. 49,207)

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